

DOCKET SECTION

BEFORE THE
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

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Postal Rate and Fee Changes, 1997

Docket No. R97-1

NEWSPAPER ASSOCIATION OF AMERICA
MOTION TO PLACE USPS MARKETING DOCUMENT INTO EVIDENCE
March 27, 1998

Pursuant to section 3001.21 of the Commission's Rules of Practice and Procedure, the Newspaper Association of America ("NAA") hereby submits a Motion to Place the "United States Postal Service 1998 Marketing Plans" ("USPS Marketing Document") in evidence. This document has been designated as Library Reference NAA/R97-1 LR 2 and as Cross Examination Exhibit NAA/SMC-RT-1-XE-1. NAA requests the Presiding Officer to place the USPS Marketing Document into evidence because the document has now been authenticated by the Postal Service and is "relevant and material evidence which is not unduly repetitious or cumulative" pursuant to Section 3001.31 of the Commission's Rules of Practice and Procedure.

As noted in Presiding Officer's Ruling R97-1/114, the USPS Marketing Document is directly related to issues of the proper pricing of postal products. Further, the document has already been used in cross-examination of SMC witness Buckel to impeach his testimony that newspaper pre-print inserts are not vulnerable to saturation mail competition. According to the USPS Marketing Document, pre-printed newspaper inserts are "most vulnerable to diversion to Ad Mail." NAA/R97-1 LR 2 at AD33. Thus, the USPS Marketing Document is relevant and material evidence.

In addition, as described more fully in NAA's March 11, 1998 Motion To Compel Admission From The USPS and NAA's March 24, 1998 Opposition to USPS Request For Certification, the USPS Marketing Document is evidence of Postal Service bias and contains party admissions. Evidence of bias is inherently relevant and routinely admitted in judicial proceedings. *See, e.g., United States v. Abel*, 469 U.S. 45, 50-51 (1984). If a statement or document is contrary to a party's position in a hearing, it is also routinely admitted as a party admission pursuant to Rule 801(d)(2) of the Federal Rules of Evidence. *See, e.g. Butler v. Southern Pacific Co.*, 431 F.2d 77, 80 (6th Cir. 1970).

NAA is aware of the USPS fears (see USPS's Compelled Response) that statements from the USPS Marketing Document may be taken out of context. As is evident from Presiding Officer's Ruling R97-1/114, the Commission will give this document the weight it deserves mindful of the USPS concerns. At any rate, the USPS's contention goes to the weight to be given the document, not its admissibility.

For all these reasons, the Presiding Officer should receive the USPS Marketing Document into evidence.

Respectfully submitted,

NEWSPAPER ASSOCIATION OF AMERICA

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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the instant document on all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

March 27, 1998



Alan R. Jenkins